

1 **THE HON. JOHN C. COUGHENOUR**

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SEP 23 2009

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON, SEATTLE**

JAMES S. GORDON, JR., a married
individual, Plaintiffs,

v.

BMG COLUMBIA HOUSE, INC., a
New York corporation; and JOHN
DOES, I-X,

Defendants,

NO. CV6-1350 JCC

PLAINTIFF'S MOTION TO STRIKE
DEFENDANT'S OPPOSITION TO
PLAINTIFF'S MOTION FOR THE
RECUSAL OF THE HONORABLE
JOHN C. COUGHENOUR

[JURY DEMANDED]

TO: CLERK OF COURT
AND TO: COUNSEL FOR DEFENDANTS



06-CV-01350-CNST

INTRODUCTION

Counsel for defendant violated FRCP 5 by not serving plaintiff with its notice of withdrawal or substitution of counsel. Subsequently, defendant's new counsel ALSO violated rule 5 by not serving plaintiff with a notice of appearance. The resulting opposition should be stricken due to these two violations of court rules. Counsel is prosecuting its case, ex parte.

BACKGROUND

Plaintiff stated in his rationale for recusal that there has been a black out in communications with this court. The foregoing are two fresh examples of the basic unfairness in the current system.

Plaintiff renews his objection to this venue and court. And, he asks this court to transfer venue to the Eastern District of WA. Contrary to the uninformed opinion of counsel, plaintiff did not select the Western District as venue and never has. It was plaintiff's former attorney who selected this venue over plaintiff's repeated objections. So, an allegation of forum-shopping would only hold true – if plaintiff had previously made a selection in terms of venue – he did not do so.

ARGUMENT

Defendant, BMG-Columbia House, appears to be a reputable company with worthwhile products and services. However, it has a penchant for hiring criminal spam gangs such and Virtumundo and the notorious Scott Richter to send its spam. It appears that defendant is attempting to distance itself from the seedy spam gangs who violate federal laws with impunity. Virtumundo, not only steals bandwidth from network service providers, but now it is being revealed that it illegally seized plaintiff's business property and destroyed evidence in this and

1 other on-going federal lawsuits. Virtumundo's counsel, appears to share culpability – before
2 and/or after the fact in terms of these federal crimes. It is plaintiff's belief that the above-
3 captioned defendant changed attorneys due to the aforementioned penchant for criminality and
4 criminals.

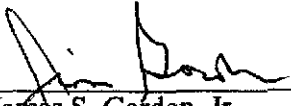
5 At best it is careless of the current (and former) counsel to play keep away with the
6 necessary documents to transition from one law firm to the next. At worst, it continues a pattern
7 of unscrupulous behavior of defendant's and defendant's counsel. By the way, defendant's
8 former counsel did mention, casually, a few months ago during the settlement talks for former
9 counsel's multiple spam clients, that they did not (or would not) represent BMG any longer.
10 However, plaintiff waited for a notice of withdrawal or substitution that never came. Plaintiff
11 sent his notice of recusal to former counsel as he believed defendant was still represented by
12 Newman et al.
13

14
15 One of the questions before this court is whether to condone or reward clear violations of
16 the rules. Another question is can plaintiff actually obtain fair treatment in this court / venue.

17
18 Counsel's overture to the court regarding dismissal should also be disregard as plaintiff
19 has ample evidence of both CEMA and Can-spam claims to sustain his case. Counsel should
20 prepare a motion to dismiss if it believes it has grounds to do so. The errors of Virtumundo
21 should not be visited upon plaintiff, ad nauseam.
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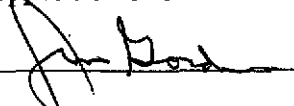
1 I declare under penalty of perjury under the laws of the United States that the foregoing
2 information and the attached exhibits are true and correct based on plaintiff's knowledge and
3 belief.

4 Dated this 21st day of September, 2009

5 
6 _____
7 James S. Gordon, Jr.
8 9804 Buckingham Drive
9 Pasco, WA 99301
10 509-210-1069

11 **CERTIFICATE OF SERVICE**

12 I, hereby, certify that on September 21, 2009, I mailed this motion to strike defendant's
13 opposition brief to this court and mailed a copy to "apparent" counsel of record for Defendant.

14 
15 _____
16 James S. Gordon, Jr.

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Western WA District Court
700 Stewart St., Lobby Level
Seattle, WA 98101

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